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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/708,740

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Vladimir Patryshev

2739

7590

06/21/2006

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San Jose, CA 95119

EXAMINER

MENDIRATTA, VISHU K

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/708,740

**Applicant(s)**

PATRYSHEV, VLADIMIR

**Examiner**

Vishu K. Mendiratta

**Art Unit**

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/23/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

***Specification***

1. The attempt to incorporate subject matter into this application by reference to (3), (8) is ineffective because they are not included as integral part of specification with details required to understand the invention.
2. The attempt to incorporate subject matter into this application by reference to (1), (2), (40) through (7) is ineffective because websites are subject to changes, as opposed to a disclosure for the purpose of patent application.
3. Claims 7 and 8 objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should be only in alternative form. See MPEP § 608.01(n). Accordingly, the claims 7 and 8 not been further treated on the merits.
4. Claims 8-10 objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim 6 or 7. See MPEP § 608.01(n). Accordingly, the claims 8-10 not been further treated on the merits.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-10 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The invention appears<sup>to</sup> disclose abstract idea only.

6. Claims 1-10 rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific asserted utility, a credible or a well established utility.

The application only includes an abstract idea of intended use of two-dimensional spaces as for playing a game. No details are provided with respect to as to how the invention is carried out/manufactured/utilized/played in any particular sequence of steps to be called a practicable method.

Claims 1-10 also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a specific asserted utility, a credible asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1-10 rejected under 35 U.S.C. 112, first paragraph, because the best mode contemplated by the inventor has not been disclosed. Evidence of concealment of the best mode is based upon **No clear method disclosed that can be practiced.**

9. Claims 1-10 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not clear what method steps are followed in the claimed "Method of playing".

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10. Claims 1-10 rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for METHOD, does not reasonably provide enablement for METHOD STEPS. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to PRACTICE the invention commensurate in scope with these claims. NO PARTICULAR METHOD OF PLAYING IS DISCLOSED.

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 1-5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what method steps are being practiced. Invention appears to be an abstract idea.

13. Claims 1-5 provides for the use of physical structures such as a cylinder, tape, surface, bottle, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 1-5 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under

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35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

### ***Drawings***

14. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). ***No new matter may be introduced in the required drawing.*** Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

### ***Claim Rejections - 35 USC § 102***

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 1-5 rejected under 35 U.S.C. 102(b) as being anticipated by Kass (3359003).

Claims 1-2: Kass teaches two-dimensional manifold structures for board game practices, including cylindrical manifolds. No actual methods are recited in claims.

Claims 3-5: Claims recite intended use of certain structures for playing board games, absent with any method steps. No limitations furthering a method of playing.

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17. Claims 1,3-5 rejected under 35 U.S.C. 102(b) as being anticipated by Gilbert (3906126).

Claims 1, 3 Gilbert teaches a mobius ring for playing game board.

Claims 3-5: Claims recite intended use of certain structures for playing board games, absent with any method steps. No limitations furthering a method of playing.

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 3-5: rejected under 35 U.S.C. 103(a) as being unpatentable over Kass.

Claim limitations are only intended use of a structure. In order to make the game entertaining, it would have been obvious to use the structure for practicing various game types.

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 5871212 teaches two-dimensional manifolds for playing a board game.

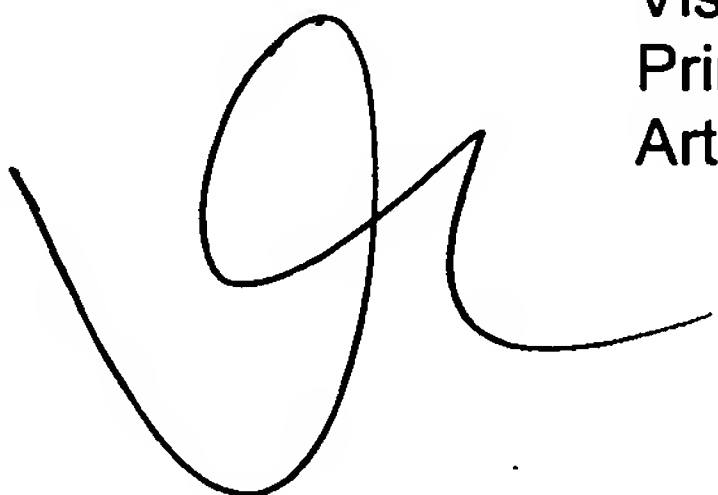
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K. Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VKM  
June 1, 2006

A handwritten signature in black ink, consisting of a large, stylized 'V' followed by a series of loops and a horizontal stroke at the end.

Vishu K Mendiratta  
Primary Examiner  
Art Unit 3711